IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 617 of 1988

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THAKORDAS JETHANAND

Versus

STATE OF GUJARAT

Appearance:

MR RJ OZA for Petitioner

MR ST MEHTA APP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/09/2000

ORAL JUDGEMENT

This Revision under section 397 read with section 401 CRPC has been preferred by the accused in Criminal Case No. 336/84. In the said Criminal Case No. 336/84, the accused was tried for offences punishable under sections 429, 279 and 427 IPC by the learned Judicial

Magistrate, First Class, Mahuva. By the judgment and order dated 24th September, 1985, the accused was convicted for the offences punishable under sections 279, 427 and 429 IPC. For the offence punishable under section 429 IPC, the accused was sentenced with three months' RI and a fine of Rs.200/-. For the offence punishable under section 427 IPC, he was sentenced with one month's imprisonment, and a fine of Rs.100/-, and for the offence punishable under section 279 IPC, RI for one month and a fine of Rs.200/- was imposed. All the three punishments were ordered to run concurrently, but the fine imposed for the respective offence, was directed to be paid separately. Feeling aggrieved, the accused preferred Criminal Appeal No. 40/85 in the Sessions Court, Bhavnagar. The learned Additional Sessions Judge, Bhavnagar, by his judgment and order dated 13th December, 1988, confirmed the conviction and sentence under section 279 IPC, and acquitted the accused of charge under sections 427 and 429 IPC, and set-aside the sentence under Section 427 and 429 IPC. Feeling aggrieved, the petitioner has preferred the present petition. The challenge to the conviction and sentence under section 279 IPC is not sustainable. The Revision, therefore, requires to be dismissed.

The learned advocate Mr. Oza informs that pending this Revision, the accused-petitioner died some six months back, and states that he shall place copy of the death certificate on the records of the matter within one month from today. In view of the death of the accused-petitioner, this Revision shall not survive. The Revision is accordingly disposed of. Rule is discharged. Interim relief is vacated.

In the event the death certificate is not produced on the records of the matter within one month from today as stated by Mr. Oza, this Revision Application shall stand dismissed, and conviction and sentence imposed by the learned Additional Sessions Judge, Bhavnagar, shall stand confirmed. In that event, the Writ be issued accordingly.

[Miss R.M Doshit, J.]

JOSHI*